

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JOSE ORRACA,

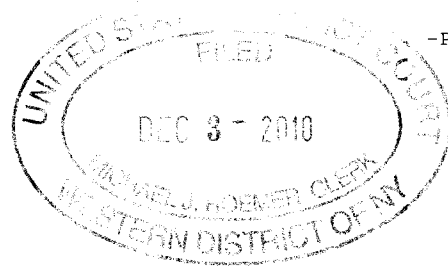
Plaintiff,

-v-

K. WASHBORN, A. BARTLETT, R. FLUMAN,  
D. SCHIEFEN,

Defendants.

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10-CV-0494M

**ORDER**

On November 8, 2010, the Court (Hon. Charles J. Siragusa): (1) granted plaintiff permission to proceed *in forma pauperis*; (2) dismissed with prejudice, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and 1915A(b), plaintiff's claims against defendant Superintendent Napoli in their entirety and plaintiff's claims against Deputy Superintendent Bartlett related to his grievances and the confiscation of personal property; dismissed without prejudice with leave to re-plead plaintiff's claims against Bartlett alleging interference with plaintiff's non-legal mail/personnel letters; and (4) directed that if plaintiff did not file an amended complaint by December 5, 2010, the Clerk of the Court was directed to cause the United States Marshals Service to serve the summons and complaint against defendants K. Washborn, A. Bartlett, R. Fluman and D. Shiefen regarding the claims alleging interference with plaintiff's legal mail. (Docket No. 3.)

On November 17, 2010, plaintiff filed a response to the Court's Order requesting the Court "to proceed with the original complaint against [defendants] Washborn, Bartlett, Fluman and Schiefen for interference with plaintiff's incoming and outgoing legal mail[]" and that "the plaintiff will continue with the original complaint and not with the amended complaint." (Docket No. 4, Response, at 1-2.)<sup>1</sup>

Accordingly, the Clerk of the Court is directed to cause the United States Marshals Service to serve the summons and complaint, along with this Order, the Order, filed November 3, 2010 (Docket No. 3), and plaintiff's response (Docket No. 4) on defendants Washborn, Bartlett, Fluman and Schiefen, without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's favor. The defendants, pursuant to 42 U.S.C. § 1997(e)(g)(2), directed to answer the complaint.

**SO ORDERED.**

S/ MICHAEL A. TELESKA  
MICHAEL A. TELESKA  
United States District Judge

Dated: December 2, 2010  
Rochester, New York

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<sup>1</sup>The response all contains additional allegations regarding the claims pled in the complaint and attaches a number of documents related to the claims herein.